



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 3, 2005

ITEM NUMBER:

SUBJECT: ALLOCATION OF IKEA PUBLIC PROJECT CONTRIBUTION

DATE: APRIL 21, 2005

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: DONALD D. LAMM, DEPUTY CITY MGR./DEV. SVS. DIRECTOR

FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, PRINCIPAL PLANNER
(714) 754-5153

RECOMMENDATION:

Specify how the IKEA \$350,000 contribution is to be allocated, subject to the consent of the contributor.

BACKGROUND:

This item was continued from City Council's meeting on April 19, 2005. Please see the attached staff report.



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 19, 2005

ITEM NUMBER:

SUBJECT: ALLOCATION OF IKEA PUBLIC PROJECT CONTRIBUTION

DATE: APRIL 7, 2005

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: DONALD D. LAMM, DEPUTY CITY MGR./DEV. SVS. DIRECTOR

FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, PRINCIPAL PLANNER
(714)754-5153

RECOMMENDATION:

Specify how the IKEA \$350,000 contribution is to be allocated, subject to the consent of the contributor.

BACKGROUND:

On November 19, 2001, City Council approved the IKEA final master plan that included the following condition of approval:

- "18. Within six months of issuance of its Certificate of Occupancy, IKEA shall provide on-site public art valued at \$350,000.00 subject to prior City approval."

Staff is unsure of the origin of the condition of approval; City Council added the condition at IKEA's final hearing without discussion. IKEA expressed willingness to comply but did not know how to proceed. At approximately the same time IKEA was being reviewed, Planning staff was processing an "Art in Public Places" ordinance that would have established guidelines and procedures to assist private parties, like IKEA, in providing public art on their properties. However, since the ordinance was not adopted, there is no official direction in how to proceed for either IKEA or City staff.

Since IKEA did not "provide public art" within six months occupancy of the store, by subsequent agreement with the City (Attachment 1), IKEA agreed that the \$350,000 may be allocated for another purpose. This allocation was in-lieu of requiring IKEA to provide art on their property, subject to City Council approval. IKEA deposited \$350,000 with the City, and the City had until January 1, 2005 to allocate the funds to public art or an alternative.

City Council considered allocation of this money at their November 1, 2004, meeting. Discussion at that meeting included; using the money for street improvements or other City capital improvements; establishing a committee comprised of members of the Cultural Arts and Historical Preservation Committees as well as the Historical Society, along with representatives of Segerstrom and IKEA, to formulate suggestions; or, to use

the money towards park acquisition and/or development. At that meeting, however, City Council did not decide whether to retain the IKEA contribution for a public purpose or project. Eventually, on a 5 to 0 vote, City Council did adopt Resolution 04-68 (attachment 2) amending condition of approval number 18 (see below) to allow the contribution to be used for either a "specific public purpose or project" or for IKEA to provide the art work, and included a provision allowing an additional 12 months to decide how to allocate the money:

"18. Prior to the issuance of its Certificate of Occupancy, IKEA shall contribute \$350,000.00 to the City of Costa Mesa for allocation to a specific public purpose or project. The public purpose or project is subject to the approval of IKEA. If within twelve months of the receipt of the contribution, the City chooses not to allocate IKEA's contribution, the City will return the contribution to IKEA and, within six months, IKEA will complete the onsite installation of public art valued at \$350,00.00, subject to City approval."

ANALYSIS:

Subsequent to Council's November 1, 2004, meeting, three new members have joined City Council. As such, since the City only has until July 1, 2005, to decide whether to retain the IKEA contribution for a "public purpose or project", staff is returning this offer to you for a final decision.

During the November 1, 2004 City Council meeting, IKEA expressed concern over using the money for general capital improvement projects, preferring the money be used for the benefit of children and families.

ALTERNATIVES:

City Council's modification of condition number 18 on November 1, 2004, allows either the allocation of IKEA's contribution to a public purpose or project acceptable to IKEA, or returning the contribution to IKEA and requiring installation of public art on their Costa Mesa property.

FISCAL REVIEW:


The contribution has been deposited with the City.


LEGAL REVIEW:

Legal review is not required.

CONCLUSION:

The \$350,000 IKEA contribution provides Council an opportunity to fund additional public projects/programs that are currently not funded. However, any project Council selects is subject to IKEA's approval.


WILLA BOUWENS-KILLEEN
Principal Planner


DONALD D. LAMM
Deputy City Mg./Dev. Svs. Director

DISTRIBUTION: City Manager
Assistant City Manager
City Attorney
Administrative Services Director
Public Services Director
Recreation Manager
City Clerk (2)
Staff (4)
File

Mr. Don Collins
IKEA
1475 South Coast Drive
Costa Mesa, CA 92626

Mr. John Robinson
IKEA
496 West Germantown Pike
Plymouth Meeting, PA 19462

Mr. Paul Freeman
CJ Segerstrom and Sons
3315 Fairview Road
Costa Mesa, CA 92626

ATTACHMENTS: 1 IKEA Agreement
2 Resolution No. 04-68

File Name: 041905IKEA

Date: 4/05/05

Time: 930 a.m.

ATTACHMENT 1

IKEA Agreement



June 29, 2004

Thomas C. Wood, Esq.
City of Costa Mesa
77 Fair Drive, P.O. Box 1200
Costa Mesa, CA 92628-1200

Re: Final Certificate of Occupancy for the Improvement located at 1475
South Coast Drive, Costa Mesa, California ("Property") constructed by
or on behalf of IKEA Property Inc. ("IKEA") Pursuant to Building
Permit Number B00-00697 ("Improvements")

Dear Tom:

Pursuant to IKEA's discussions with the City of Costa Mesa ("City"), IKEA and the City desire to execute this letter ("Letter Agreement") to evidence IKEA's and the City's agreement with respect to the issuance of a final Certificate of Occupancy and IKEA's compliance with the City's Condition of Approval Number 18 applicable to Resolution No. 01-81 approving Master Plan PA-99-34 and Minor Conditional Use Permit ZA-01-36 (the "Resolution"). Condition of Approval Number 18 requires that "[w]ithin six months of issuance of its Certificate of Occupancy, IKEA shall provide on-site public art valued at \$350,000 subject to prior City approval." As of the date of this Letter Agreement, IKEA has not received its final Certificate of Occupancy pending resolution of the public art requirement (discussed below) and performance of other conditions regarding the project (which other conditions have been satisfied). A temporary Certificate of Occupancy issued by the City has lapsed.

IKEA and the City agree that the City may desire to reallocate the use of the entire \$350,000 public art amount (the "Funds") for another specific public purpose or project, such as equipping a fire station with new trucks and/or other equipment, in lieu of requiring IKEA to provide public art. The City agrees that it shall, within six (6) months from the date of the final Certificate of Occupancy, decide whether it intends to reallocate the use of such Funds to another public purpose or project, and if so, shall perform the following within such six (6) month period:

1. Obtain IKEA's reasonable consent to such reallocation of the Funds, which consent shall not be withheld so long as the Funds are used for a public purpose or project; and
2. Initiate, process and obtain the approval of the City Council to an amendment to the Resolution eliminating Condition of Approval No. 18 and authorizing the reallocation



of the Funds to the specified public purpose or project (the "Amendment").

In the event the City elects to reallocate the Funds, obtains IKEA's reasonable consent and obtains the approval of City Council to the Amendment in accordance with the foregoing, then the City may withdraw and apply the Funds and the earned interest from the Escrow Account (defined below) for such use.

In the event the City elects not to reallocate the Funds pursuant to the foregoing or is unable to satisfy Items 1 or 2 above, then at such time as the City notifies IKEA in writing of the occurrence of such event (the "City Notice"), IKEA shall commence to design and construct/install public art on the Property with a value of Three Hundred Fifty Thousand Dollars (\$350,000) in such form and at such location as is mutually agreed upon by IKEA and the City. We understand that the City does not have a formal art program and, therefore, IKEA and the City agree to cooperate to mutually agree upon the form and location of IKEA's public art. IKEA shall complete the installation of such public art within six (6) months from its receipt of the City Notice, provided the City is able to promptly and timely respond to IKEA's proposals, to timely issue permits and to reasonably approve of the public art proposed by IKEA. IKEA shall be permitted to make monthly draws from the Escrowed Funds (defined below) to pay for the monthly costs incurred by IKEA in connection with the construction or creation of such public art, including without limitation, the professional fees of the artist.

Subject to the terms and provisions of this Letter Agreement, IKEA agrees to deposit the Funds (the "Escrowed Funds") with the City Director of Finance who will place said funds in an interest bearing account (the "Escrow Account") and the City agrees to concurrently issue a final Certificate of Occupancy for the Improvements on IKEA's Property, both of which shall occur no later than three (3) business days from the date the City representative executes this Letter Agreement.

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We appreciate your assistance with this matter and look forward to a mutually beneficial relationship with the City for many years to come. IKEA's and the City's execution below indicates their agreement to comply with the terms of this Letter Agreement.

Very truly yours.

John Robinson
Treasurer

AML

cc: Mr. Donald Collins
Ms. Patricia Merwin
Anne M. LaPlace, Esq.
Allan Roeder, City Manager
Marc Puckett, Director of Finance
Tom Wood, Acting City Attorney

AGREED AND ACCEPTED BY THE
CITY OF COSTA MESA AS OF THIS
12 DAY OF JUNE, 2004

A handwritten signature in black ink, appearing to read "Don Lamm", written over a horizontal line.

By: Don Lamm

Title: Director of Development Services

ATTACHMENT 2

**Resolution No. 04-68
Adopted November 1, 2004**

RESOLUTION NO. 04-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING THE IKEA MASTER PLAN (PA-99-34) CONDITION OF APPROVAL NUMBER 18 RELATING THE PROVISION OF ONSITE PUBLIC ART LOCATED AT 1475 SOUTH COAST DRIVE.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES
AS FOLLOWS:

WHEREAS, the IKEA Final Master Plan (PA-99-34) was adopted by the City Council of the City of Costa Mesa on November 19, 2001.

WHEREAS, condition of approval number 18 was included that addressed the installation of public art in the IKEA project site.

WHEREAS, a duly noticed public hearing was held by the City Council on November 1, 2004 to review this condition of approval.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COSTA MESA that the Costa Mesa City Council hereby amends condition of approval number 18 of the IKEA Final Master Plan (PA-99-34) as contained in Exhibit "A".

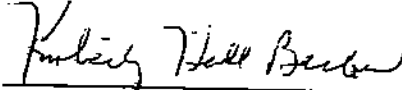
PASSED AND ADOPTED this 1st day of November, 2004.

ATTEST:


Deputy City Clerk of the City of Costa Mesa


Mayor of the City of Costa Mesa

APPROVED AS TO FORM


City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 04-68 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 1st day of November, 2004, by the following roll call vote:

AYES: Monahan, Mansoor, Cowan, Scheafer, Steel

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this 2nd day of November, 2004.



Deputy City Clerk and ex-officio Clerk of
the City Council of the City of Costa Mesa

EXHIBIT "A"

PA-99-34

- "18. Prior to issuance of its Certificate of Occupancy, IKEA shall contribute \$350,000.00 to the City of Costa Mesa for allocation to a specific public purpose or project. The public purpose or project is subject to the approval of IKEA. If within twelve months of the receipt of the contribution, the City chooses not to allocate IKEA's contribution, the City will return the contribution to IKEA, and within six months, IKEA will complete the onsite installation of public art valued at \$350,000, subject to City approval."